

## **FACTSHEET**

**TITLE:** **ALLEY VACATION NO. 02017**, requested by Midwest Pump and Equipment Co., to vacate the north-south alley from the north line of vacated Hatch Street running northwesterly between Lot 18, Block 22, Wrigton Addition, and Lot 126 I.T., generally located at 7<sup>th</sup> & vacated Hatch Streets.

**STAFF RECOMMENDATION:** Conditional approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/08/03 and 02/05/03  
Administrative Action: 02/05/03

**RECOMMENDATION:** Conditional approval, with amendment deleting Condition #1.2 (7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Duvall and Larson absent).

### **FINDINGS OF FACT:**

1. The staff recommendation of conditional approval was based upon the "Analysis" as set forth on p.3-4, expressing concern that vacating the north-south alley right-of-way will create a situation where connecting east-west alley right-of-way will be left without potential for access. Public Works recommended that the east-west alley should be included in this request before the vacation is approved (See Condition #1.2).
2. On January 8, 2003, this request was deferred until February 5, 2003, in anticipation of a petition to vacate the east-west alley.
3. On February 5, 2003, the representative of the applicant gave testimony, noting that he was unable to obtain the cooperation of LPS in vacating the east-west alley right-of-way, and that both rights-of-way were isolated today by the previous vacation of Hatch Street; therefore, this petition to vacate should not be further delayed, and he requested that Condition #1.2 be deleted (See Minutes, p.5).
4. There was no testimony in opposition.
5. On February 5, 2003, the staff advised that the petition to vacate the east-west alley had been filed and was in process.
6. On February 5, 2003, the Planning Commission voted 7-0 to recommend approval of the staff recommendation of conditional approval, **with amendment deleting Condition #1.2**, which would have required that this street vacation not be scheduled before the City Council until the petition to vacate the east-west alley is scheduled.
7. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been met.
8. **Editorial Note:** The petition to vacate the east-west alley is scheduled for hearing and action by the Planning Commission on April 2, 2003.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** March 31, 2003

**REVIEWED BY:** \_\_\_\_\_

**DATE:** March 31, 2003

**REFERENCE NUMBER:** FS\CC\2003\SAV.02017

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Street and Alley Vacation #02017

**DATE:** January 27, 2003

**SCHEDULED PLANNING COMMISSION MEETING:**

**DATE:** January 8, 2003

**CONTINUED PLANNING COMMISSION MEETING:**

**DATE:** February 5, 2003

**\*\*As Revised by Planning Commission: 2/05/03\*\***

**PROPOSAL:** To vacate the north-south alley from the north line of vacated Hatch Street running northwesterly between Lot 18 Block 22 Wrigton Addition and Lot 146 I.T.

**LAND AREA:** 2,557.23 square feet, more or less

**CONCLUSION:** Vacating the north-south alley will create a situation where an east-west alley will be left without access. The east-west alley should be included in this request before the vacation is approved. The property owner adjacent to the north of the east-west alley will be meeting with the Planning Department regarding the vacation of the east-west alley. The Planning Department recommends deferral of this action until February 5, 2003. Planning Department anticipates this will allow the adjacent property owner sufficient time to consider filing a petition.

<b><u>RECOMMENDATION:</u></b>
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Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The north-south alley from the north line of vacated Hatch Street running northwesterly between Lot 18 Block 22 Wrigton Addition and Lot 146 I.T., located in the southeast quarter of Section 35, Township 10 North, Range 6 East of the 6<sup>th</sup> P.M.

**LOCATION:** 7<sup>th</sup> Street and vacated Hatch Street.

**APPLICANTS:** Midwest Pump and Equipment Co.  
2300 South 7<sup>th</sup> Street  
Lincoln, NE 68502  
(402) 476.6681

Daniel Dallman, Trustee  
Rebecca Dallman, Trustee  
622 South Street  
Lincoln, NE 68502  
(402) 476.5500

**OWNERS:** Same as Applicants.

**CONTACT:** Midwest Pump and Equipment Company  
Dennis Walls  
2300 South 7<sup>th</sup> Street  
Lincoln, NE 68502  
476.6681

**SURROUNDING LAND USE AND ZONING:**

North:	Open storage	P Public
South:	Industrial	I-1 Industrial
East:	Open storage, vacant, Industrial	I-1 Industrial
West:	Industrial	I-1 Industrial

**HISTORY:** Prior to the 1979 zoning update, this property was zoned K Light Industrial. The update changed the designation to I-1 Industrial.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The 2025 Comprehensive Plan contemplates this property to remain Industrial.

Guiding Principles for Existing Neighborhoods:

Maintain existing pattern of streets. (F 69)

**UTILITIES:** Existing LES and telecommunication facilities are located within this alley.

**TRAFFIC ANALYSIS:** 7<sup>th</sup> Street is currently classified as a Local Street. (E 49) The 2025 Comprehensive Plan indicates 7<sup>th</sup> Street will remain classified as a Local Street. (F 105)

**ANALYSIS:**

1. This is an application to vacate the north-south alley from the north line of vacated Hatch Street running northwesterly to the south line of another alley.
2. Applicants desire to vacate this alley and acquire the right-of-way to use as driveway access to their building located on the adjacent property.
3. Applicants are willing to purchase the right-of-way if vacated.

4. There are public utilities existing within the boundaries of this proposed vacated area. A permanent public easement should be established over the entire vacated area for existing public facilities.
5. The vacation of this alley will not create any lots that do not front on and have access to a public street. However, previous street and alley vacations have left multiple lots without frontage or access to a public street.
6. This vacation will disrupt the existing street pattern by creating a situation where a dedicated alley cannot be accessed from a street or alley.
7. Public Works is opposed to this alley vacation until such time as petitions are submitted to vacate the east/west alley.
8. A petition to vacate the east/west alley has been filed and referred to the Law Department.
9. The Planning Department recommends approval of this petition on the condition that it not be advanced to the City Council until such time as the petition to vacate the east/west alley has been heard and acted upon by the Planning Commission.

**BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:**

- 1.1 The provisions of LMC Chapter 14.20 must be met.
- ~~1.2 The petition to vacate the east/west alley must be heard and acted upon by the Planning Commission. Both petitions should be advanced to the City Council at the same time.~~  
**(\*\*Per Planning Commission: 2/05/03\*\*)**
- 1.3 A permanent public easement should be established over the entire vacated area for existing public facilities.

Prepared by:

Greg Czaplewski  
Planner

## STREET & ALLEY VACATION NO. 02017

### **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 8, 2003

Members present: Carlson, Bills-Strand, Larson, Newman, Taylor, Krieser and Schwinn; Steward and Duvall absent.

Staff recommendation: Deferral.

Greg Czaplewski of Planning staff advised that the staff is requesting a deferral until February 5, 2003. The applicant has agreed to the deferral.

Bills moved to defer, with continued public hearing and administrative action scheduled for February 5, 2003, seconded by Newman and carried 7-0: Carlson, Bills-Strand, Larson, Newman, Taylor, Krieser and Schwinn voting 'yes'; Steward and Duvall absent.

### **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 5, 2003

Members present: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn; Larson and Duvall absent.

Staff recommendation: Conditional approval.

### **Proponents**

1. **Jack Wolf**, 830 Wells Fargo Center, appeared on behalf of the applicant. Wolf requested that the Commission delete Condition #1.2, which requires a second petition to vacate the east/west alley prior to scheduling this petition on to the City Council. The vacation petition before the Commission is for the north/south alley that then abuts an alley that the staff would like to have considered at the same time. Midwest Pump made several efforts to work with LPS, the property owner abutting that alley to the north, and LPS did not want to have anything to do with it. In fact, LPS has fenced in that alley.

Wolf noted that #6 of the staff analysis states that this vacation "...will disrupt the existing street pattern by creating a situation where a dedicated alley cannot be accessed from a street or alley." Wolf took issue with this analysis. He does not know what staff is referring to. The alley which his client is seeking to vacate abuts vacated Hatch Street. It does not abut an open alleyway or street. Wolf requested that the Commission approve this vacation and move it forward. This petition was filed in December of 2001, and is just now before the Commission.

There was no testimony in opposition.

Carlson inquired whether the staff has heard anything from LPS. Greg Czaplewski of Planning staff advised that initially, when this was before the Commission, the staff had requested deferral

because the proposed vacation did not conform with the Comprehensive Plan as it would leave the east/west alley without access. The staff was hoping to get a petition for vacation of that east/west alley in place so that both could be advanced to the City Council at the same time. The petition to vacate the east/west alley has been submitted and is in process. The staff is comfortable with moving this forward, but this vacation would not be scheduled at Council until both alley vacations can be presented together.

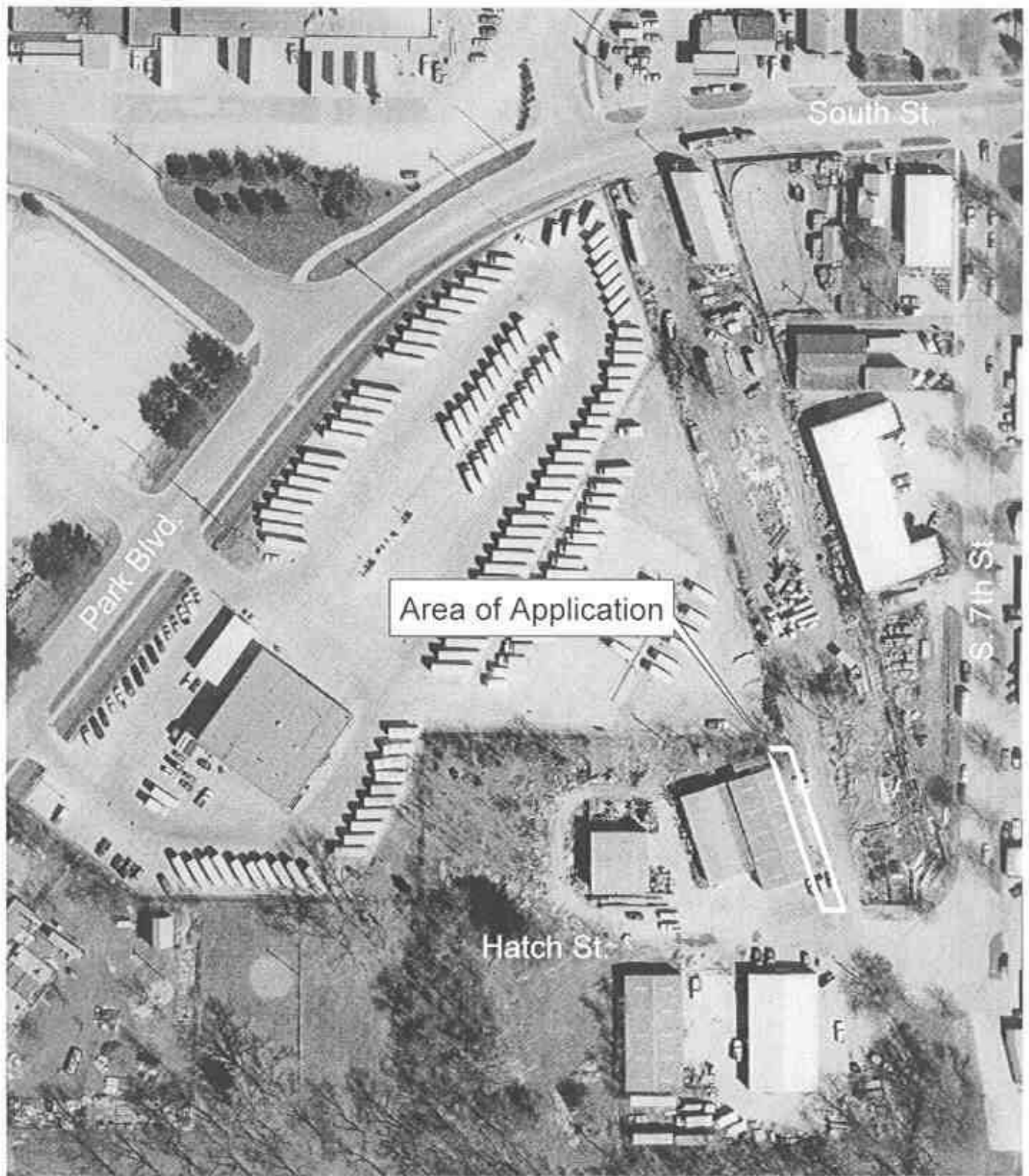
Schwinn noted that all of the property on the other alley is going to go to LPS. Czaplewski concurred.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

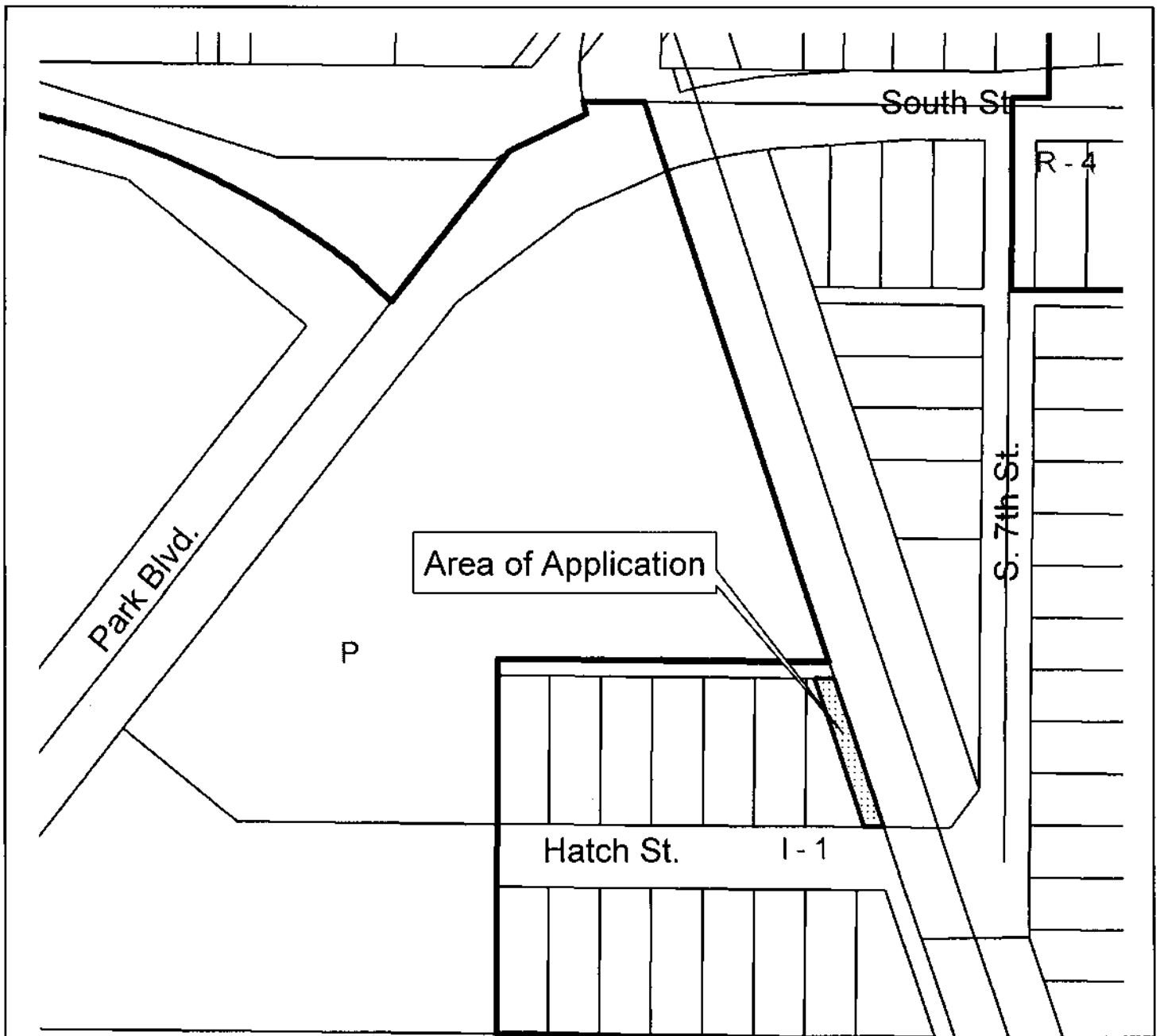
February 5, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #1.2, as requested by the applicant, seconded by Krieser and carried 7-0: Carlson, Newman, Krieser, Taylor, Bills-Strand, Steward and Schwinn voting 'yes'; Duvall and Larson absent.



**Street & Alley Vacation #02017**  
**S. 7th & Hatch St.**





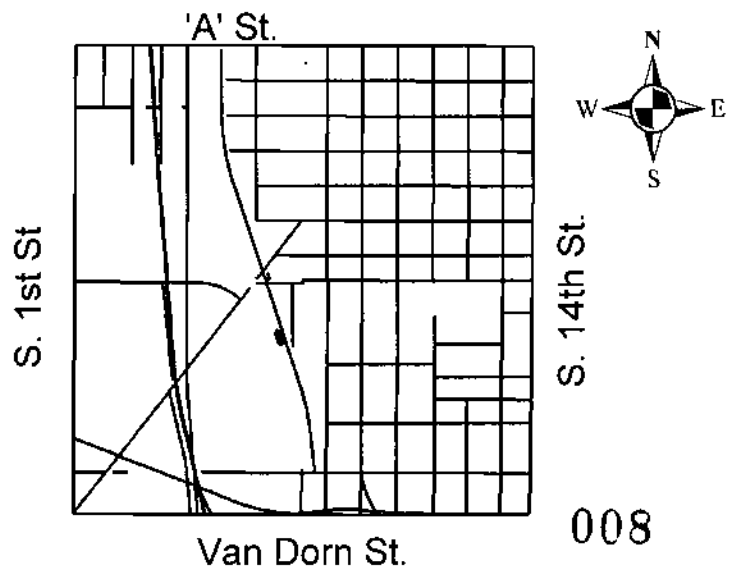
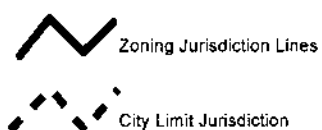
## Street & Alley Vacation #02017

### S. 7th & Hatch St.

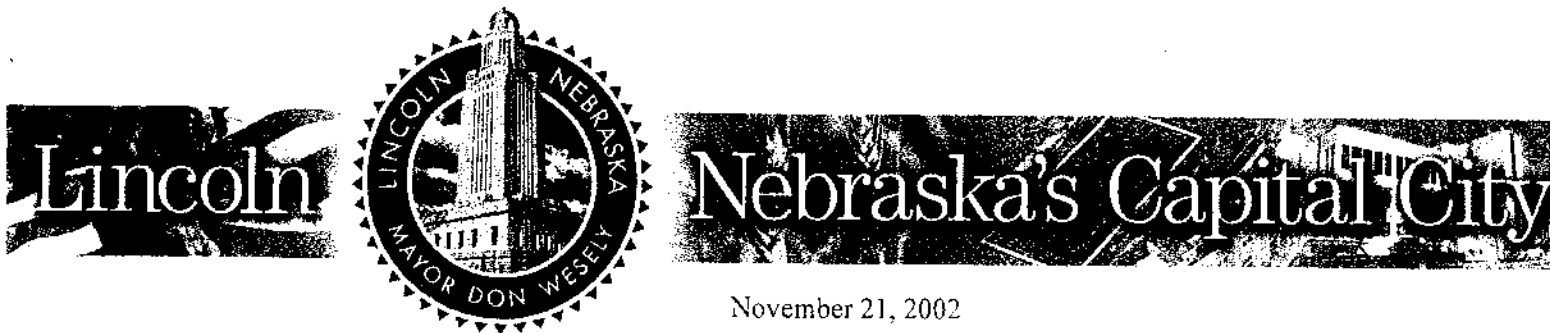
#### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 35 T10N R6E







November 21, 2002

Lincoln City/Lancaster County  
Planning Commission  
Lincoln, Nebraska 68508

RE: Vacating the north-south alley from the north line of vacated Hatch Street running northwesterly between Lot 18, Block 22 Wrington Addition and Lot 146 I. T. in the southeast quarter of Section 35-10-6

Dear Ladies and Gentlemen:

Public Works has received a petition to vacate the above mentioned public right-of-way. There is also an east-west alley in this block which only has access to a public street through the north-south alley. Engineering Services informed the petitioner that the alley cannot be recommended for vacation unless the east-west alley was also petitioned for because it is not in the public interest to create a situation where a dedicated alley cannot be used for its dedicated purpose. The petitioner has requested the vacation be considered and the City Attorney's office has indicated that the request be forwarded.

Public Works strongly recommends that this requested vacation be denied unless the east-west alley is also petitioned to be vacated. Engineering Services fully recognizes that the alley is not opened for traffic and likely will not be opened in the foreseeable future, but the situation should not be created that isolates a dedicated right-of-way with no means of accessing it or to assume a property owner's future expectations or use of an abutting right-of-way.

If the north-south alley is vacated, a permanent easement will need to be established for the existing Lincoln Electric System and Alltel facilities.

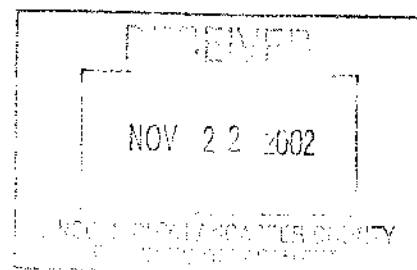
This vacation contains an area of 2,557.23 square feet, more or less.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis Bartels".

Dennis Bartels  
Engineering Services

cc: Mayor Wesely  
Allan Abbott  
Marvin Krout  
Marc Wullschlegler  
Roger Figard  
Nicole Fleck-Tooze  
Joan Ross  
Clint Thomas  
Rick Peo  
Jack Wolfe  
Randy Hoskins



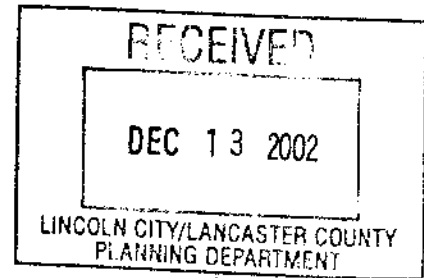
Hatch St Vac item wpd

LAW OFFICES

WOLFE, SNOWDEN, HURD, LUERS & AHL, LLP

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1248 "O" STREET  
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STEPHEN L. AHL  
DEAN J. SITZMANN  
THOMAS C. SATTLER  
THOMAS B. WOOD  
ANDREW B. KOSZEWSKI  
CATHY S. TRENT



December 12, 2002

Mr. Greg Czaplewski  
Lincoln-Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street, Room 213  
Lincoln, Nebraska 68508

RE: Vacating the north-south alley from the north line of vacated Hatch Street running northwesterly between Lot 18, Block 22, Wrington Addition, and Lot 146 I.T. in the Southeast Quarter of Section 35-10-6

Dear Mr. Czaplewski:

Pursuant to our telephone conversation of this date, I am submitting to you the following documents, to wit:

1. Letter of August 1, 2002, addressed to myself from Jeanette Stull representing Lincoln Public Schools; and
2. Copy of survey prepared by Olsson Associates dated July 30, 2002; and
3. My letter of August 26, 2002, to Jeanette Stull.

I believe the letters and survey are self-explanatory inasmuch as Midwest Pump's interest is vacating the alley for which the petition has been filed.

Please provide me with a copy of your report when it becomes available, and unless I hear from you differently, I will assume that the public hearing before the Lincoln-Lancaster Planning Commission will be January 8, 2003.

Very truly yours,

Jack G. Wolfe

jwolfe@wolfsnowden.com

JGW:bdc  
Enclosures

010

**PERRY, GUTHERY, HAASE  
& GESSFORD, P.C., L.L.O.**

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Ernest B. Perry (1876-1962)  
Arthur E. Perry (1910-1982)  
R.R. Perry - (1917-1999)

Of Counsel  
Edwin C. Perry

RECEIVED

AUG 9 2002

NOT RECORDED

August 1, 2002

Mr. Jack Wolfe  
1248 O Street, Suite 830  
Lincoln, Nebraska 68508-1424

RE: LPS/Midwest Pump Alley Vacation


Dear Jack:

Jerry Kamptz at Olsson Associates has finally completed the survey of the alley between LPS's Transportation Department and Midwest Pump. Enclosed please find a sketch of the area prepared by Jerry. Our original intent in having the survey done was to be able to create a legal description allowing the property LPS has fenced in to be deeded to it after the vacation and the remaining property to be deeded to Midwest Pump. After reviewing the survey sketch, it appears that LPS's fence comes very close to fencing in the entire alley. As such, it may be simpler to deed all of the alley to LPS following the vacation. In anticipation of this, Jerry has not prepared a legal description yet. But if Midwest pump would prefer to continue with the original plan of deeding only the fenced in portion to LPS, I can ask Jerry to go ahead and do a legal description.

After reviewing this information with Midwest Pump, please get back to me with your thoughts. Thank you for your patience in this matter.

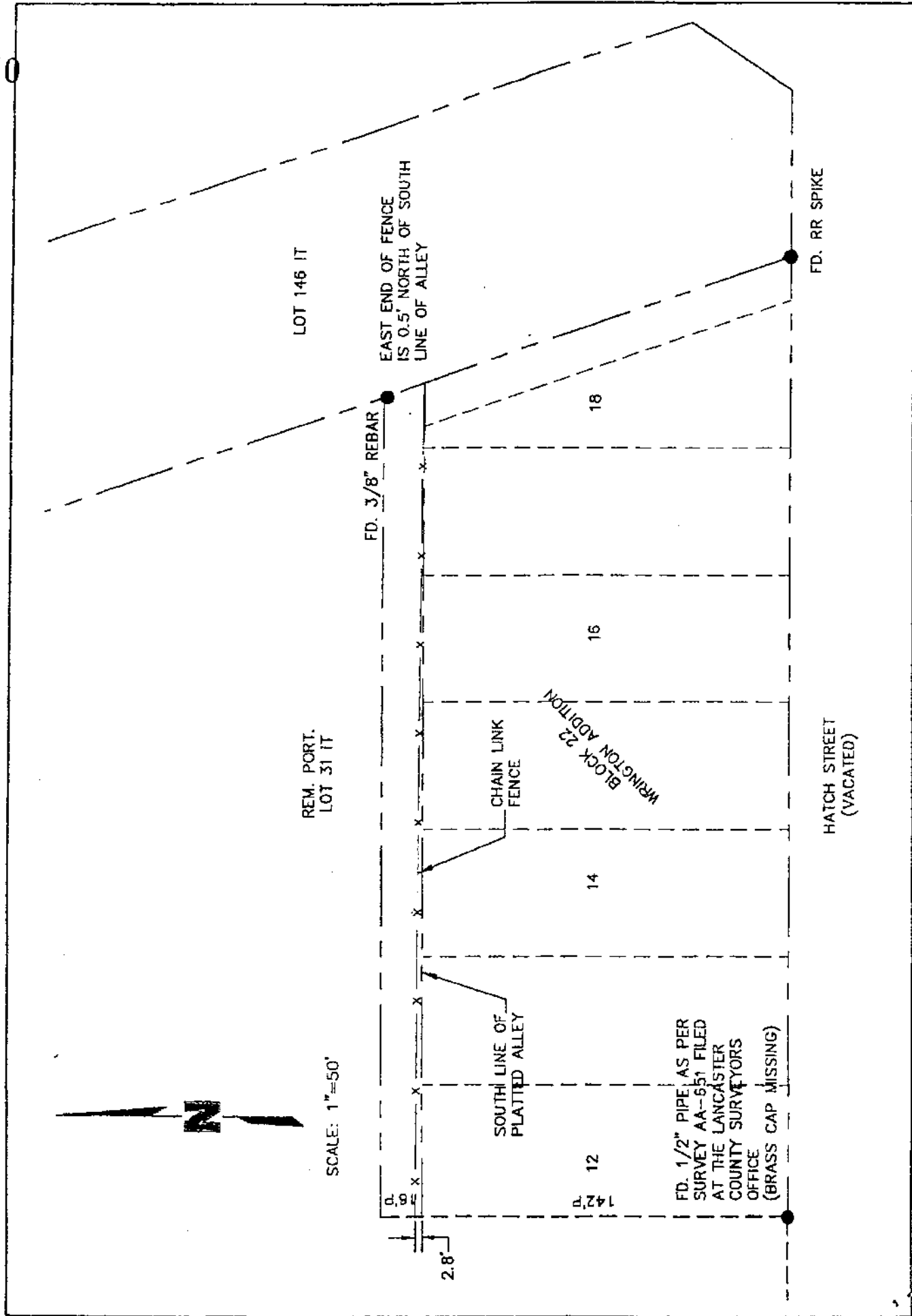
Sincerely,

PERRY, GUTHERY, HAASE  
& GESSFORD, P.C., L.L.O.



Jeanette Stull

cc: Denny Van Horn  
Scott Wieskamp



LAW OFFICES

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THOMAS C. SATTLER  
THOMAS B. WOOD  
ANDREW B. KOSZEWSKI  
S. GREGORY NELSON

August 26, 2002

Ms. Jeanette Stull  
Perry, Guthery, Haase & Gessford, P.C., L.L.O.  
233 South 13<sup>th</sup> Street, Suite 1400  
Lincoln, Nebraska 68508

Re: LPS / Midwest Pump  
Alley Vacation

Dear Jeanette:

I have spoken with my clients and they have no interest in paying for 100% of the alley and then deeding it to the Lincoln Public Schools system. While they have no objection if LPS wants to go forward with the vacation and purchase 100% of the east/west alley, they are of the opinion that they would prefer to have the alley open rather than pay for it on behalf of LPS.

If your client does not want to vacate the alley and acquire 100% of the real estate involved, I have been instructed to pursue having the alley opened.

Please advise me of your client's decision.

Very truly yours,

Jack G. Wolfe  
[jwolfe@wolfesnowden.com](mailto:jwolfe@wolfesnowden.com)

JGW:bdc  
pc: Midwest Pump & Equipment

SAV. 02017  
PC: 01/08/03

## INTEROFFICE MEMORANDUM

TO: Mayor Wesely  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: March 11, 2003

COPIES TO: Joan Ross  
Marvin Krout  
Dana Roper  
Byron Blum

SUBJECT: Vacation of North-South Alley from  
north line of vacated Hatch Street  
northwesterly between Lot 18, Block  
22, Wrington Addition and Lot 146,  
IT, SE1/4 of Sec 35-10-6

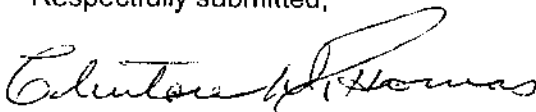
A request has been made to vacate this alley. The alley is physically located north of Hatch Street which is a vacated street lying approximately 2 blocks south of South Street and west of South 7<sup>th</sup> Street where South 7<sup>th</sup> Street deadends in a cul-de-sac. As platted, the alley lies immediately west of an abandoned Burlington Northern-Santa Fe rail corridor. When viewed, it is very difficult to determine the precise location of the alley. There is a power line which is presumed to be within the alley right-of-way, but its precise location is unknown. The area west of the power line is fenced and concreted and being used in conjunction with the adjoining property and improvements. The area east of the power line is vacant land and appears as if it were part of the former railroad right-of-way. That adjoining property shows evidence of construction activity and building may be occurring within that area.

Public Works has asked for the retention of easements for the Lincoln Electric System and Alltel facilities located within the alley. A small, narrow strip such as this has very little value to anyone except the abutting property owners. As such a nominal value of \$0.15 per square foot is considered appropriate. The calculations are as follows:

2,557.23 square feet X \$0.15/sq. ft. = \$383.58      Called \$380

Therefore it is recommended that if the alley be vacated it be sold to the abutting property owner for \$380.

Respectfully submitted,



Clinton W. Thomas  
Certified General Appraiser #990023

dge

